Ontario Civilian Commission on Police Services

Annual Report

1999

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Mission Statement

The Ontario Civilian Commission on Police Services is an independent oversight agency committed to serving the public by ensuring that adequate and effective policing services are provided to the community in a fair and accountable manner.

Chair's Message

The Commission is tasked with ensuring the adequacy and effectiveness of police services and police services boards. Amendments to the *Police Services Act* that took effect in January 1998 expanded our mandate to include the review of local decisions arising from public complaints.

As a result, in the last twelve months we have seen our staff complement grow to keep pace with increases in service demands. Of note, in February, John Balkwill, D.D.S. was appointed to the Commission as Vice Chair, Complaints. Dr. Balkwill participates on the Public Complaints Committee of the Ontario Association of Chiefs of Police and along with staff, liaises regularly with police complaints bureau investigators.

We have implemented enhancements to technology and procedures to streamline our work and expedite processing of files. Year-after-year, there were fewer requests for hearings on disbandments, amalgamations and downsizing of police services and appeals of disciplinary penalties but an increase in requests for information. Since the Commission assumed responsibility for reviewing complaints about police conduct, the total number of requests for reviews of local decisions has fallen slightly. Cases have, however, become more complex.

During 1999 the Commission concluded major fact-finding projects with respect to the York Regional Police Service and the Toronto Police Service. In both cases, the initial requests to the Commission were for formal investigations pursuant to section 25 of the Act. However, in these particular cases, rather than a formal investigation the Commission assigned staff to collect information on a narrowly defined range of issues and report back with their findings. A formal section 25 investigation involving the Ottawa-Carleton Police Service was completed late in the year. The summaries from these reports can be found on the following pages.

It is notable that in examining aspects of policing in these three services, staff found there were common themes or issues which contributed to varying levels of concern. These included administration, disciplinary practices, communications, morale, advisory services and governance. The reports included recommendations for Board and Service action and requirements for follow-up reports to the Commission on implementation plans. Board chairs were also requested to attend Commission meetings to provide briefings on progress achieved.

I was invited to attend the 15th Annual World Conference of the International Association for Civilian Oversight of Law Enforcement held in August in Sydney, Australia. Over 150 delegates from forty five countries including Argentina, South Africa, Scotland, Northern Ireland, Papua, New Guinea, China, England, Hungary and the United States. The agenda covered topics such as: Royal Commissions, Incentives for Change - The Police Perspective, Parliament and the Accountability of Civilian Oversight Bodies, Operational Strategies to Reduce Corruption, The Issue of the Political Use of Police and Law Enforcement Ethics in the Information Age.

My presentation was on "The Essentials of Effective Civilian Oversight: An Ontario Perspective". I spoke about the legislative and procedural frameworks for civilian oversight, with a focus on ensuring effectiveness not only of the organizations in which we work, but also of those whom we hold accountable for compliance with laws and standards. In terms of service delivery, this means maintaining independence and competencies, establishing performance goals and monitoring achievements, ensuring simple transparent systems with a customer service focus and encouraging informal resolution.

In this context, Commission staff continued their work with stakeholder groups and professional organizations. These included the Ontario Association of Chiefs of Police (OACP), the Ontario Association of Police Services Boards (OAPSB), the Police Association of Ontario (PAO) and the Ontario Provincial Police Association (OPPA), the Council of Boards and Agencies (COBA), a national association of administrative tribunals and agencies and the Society of Ontario Adjudicators and Regulators (SOAR), a provincial organization of chairs, members and executive staff of administrative justice system agencies.

In my role as Vice Chair of the Council of Canadian Administrative Tribunals (CCAT), I attended the 15th Annual Conference on the subject of Best Practices in Administrative Justice. The program included Aboriginal Justice Systems, Recurring Issues in Administrative Law Around the World, Promoting Settlements, Independence, Accountability and Ethics.

The coming year will bring additional challenges, particularly to police services boards preparing for the January 1, 2001 implementation of the Adequacy Standards Regulation. I anticipate that the scope of our interactions with stakeholders and the public, monitoring of police services and boards and enforcement of compliance will continue to grow. We will be completing consultations in preparation for updating our draft Rules of Practice, first issued in 1998. The Commission's web site will be launched late in 2001 and will include Commission Rules, Protocols for Proceedings, the full text of decisions and information about the public complaint process. Performance Review systems for members and staff will be fully implemented before year-end.

Our focus will continue to be on improving the quality, consistency and transparency of the Commission's core business functions and promoting timely resolution of complaints at each step in the process. We are committed to fairness with respect to discharging our duties and ensuring the adequacy and effectiveness of policing in Ontario.

Murray W. Chitra, Chair
Ontario Civilian Commission on Police Services

Role of the Commission

As an independent quasi-judicial agency, the Ontario Civilian Commission on Police Services carries out a number of duties which are primarily adjudicative or decision-making in nature.

These include hearing appeals of police disciplinary penalties; adjudicating disputes between municipal councils and police service boards involving budget matters; conducting hearings into requests for the reduction, abolition, creation or amalgamation of police services; conducting investigations and inquiries into the conduct of chiefs of police, police officers and members of police services boards; determining the status of police service members; conducting reviews of local decisions relating to public complaints at the request of complainants; and, general enforcement relating to the adequacy and effectiveness of policing services.

In Ontario, police services and police services boards are ultimately accountable to the public through the Commission. The mandate and duties of the Ontario Civilian Commission on Police Services are set out in the *Police Services Act.* The Commission reports to the Solicitor General.

Summary of Commission Powers

1. Authorization for the reduction or abolition of municipal police services, the amalgamation of police services; the creation of a new police service; alternative methods of providing police services; (sections 5, 6, 40)

2. Conducting inquiries, on its own motion, in respect of a complaint or complaints made about the policies of or services provided by a police force or about the conduct or work performance of a police officer and the disposition of such complaints; intervene at any stage in the complaints process and assign the review or investigation of or hearing into a complaint to another police force; (sections 73(1), 22(e.1))

3. Conducting reviews, at the request of a complainant, or on its own motion into the disposition of complaints; (sections 22(1)(e.1), 71)

4. Making recommendations with respect to the policies of or services provided by a police force and the administration of the public complaints process; (section 22(e.2))

5. Adjudicating disputes between municipal councils and police services boards about the adequacy of annual estimates or budgets; (section 39)

6. Approval of the appointments of First Nations Constables to perform specified duties in designated geographic areas; (section 54)

7. Hearing appeals with respect to disciplinary penalties; original proceedings against a chief of police; appeals from discharge or retirement where disability renders a member incapable of performing essential duties of the position; (sections 47, 65(9), 70)

8. Making determinations in disputes as to whether a person is a member of a police service or a senior officer, approval of creation of more than two categories within a police force for purposes of collective bargaining; (sections 116, 118)

9. Intervening when it finds that a municipal police force is not providing adequate and effective police services; determining whether or not a police services board has flagrantly or repeatedly failed to comply with prescribed standards; making interim orders without notice and without holding a hearing, where an emergency exists; (sections 9, 22, 23, 24)

10. Conducting inquiries into the conduct or performance of duties of a municipal chief of police or police officer, an auxiliary member, special constable or board member, the administration of a municipal police force, the manner in which police services are provided, policing needs; conducting investigations with respect to municipal policing matters; and, at the request of the Lieutenant Governor in Council, inquiring into any matter relating to crime or law enforcement (sections 25, 26).

Commission Organization

In 1999 the Commission had ten part-time members, a full-time Chair and Vice Chair. Members are normally appointed for terms of 3 years by Order-in-Council. The men and women who serve on the Commission represent a diverse cross-section of professions and communities across Ontario. There is a small core of staff that support the work of the Commission.

Keeping up to date with contemporary police and management practices is essential to continuing effectiveness. Members and senior staff participate in a variety of outreach and professional development activities. These include presentations at public forums and public education meetings, acting as a resource for the police, stakeholder training initiatives and sub-committees such as the Police Complaints and Police Restructuring Committees which are comprised of representatives from stakeholder groups and the Ministry.

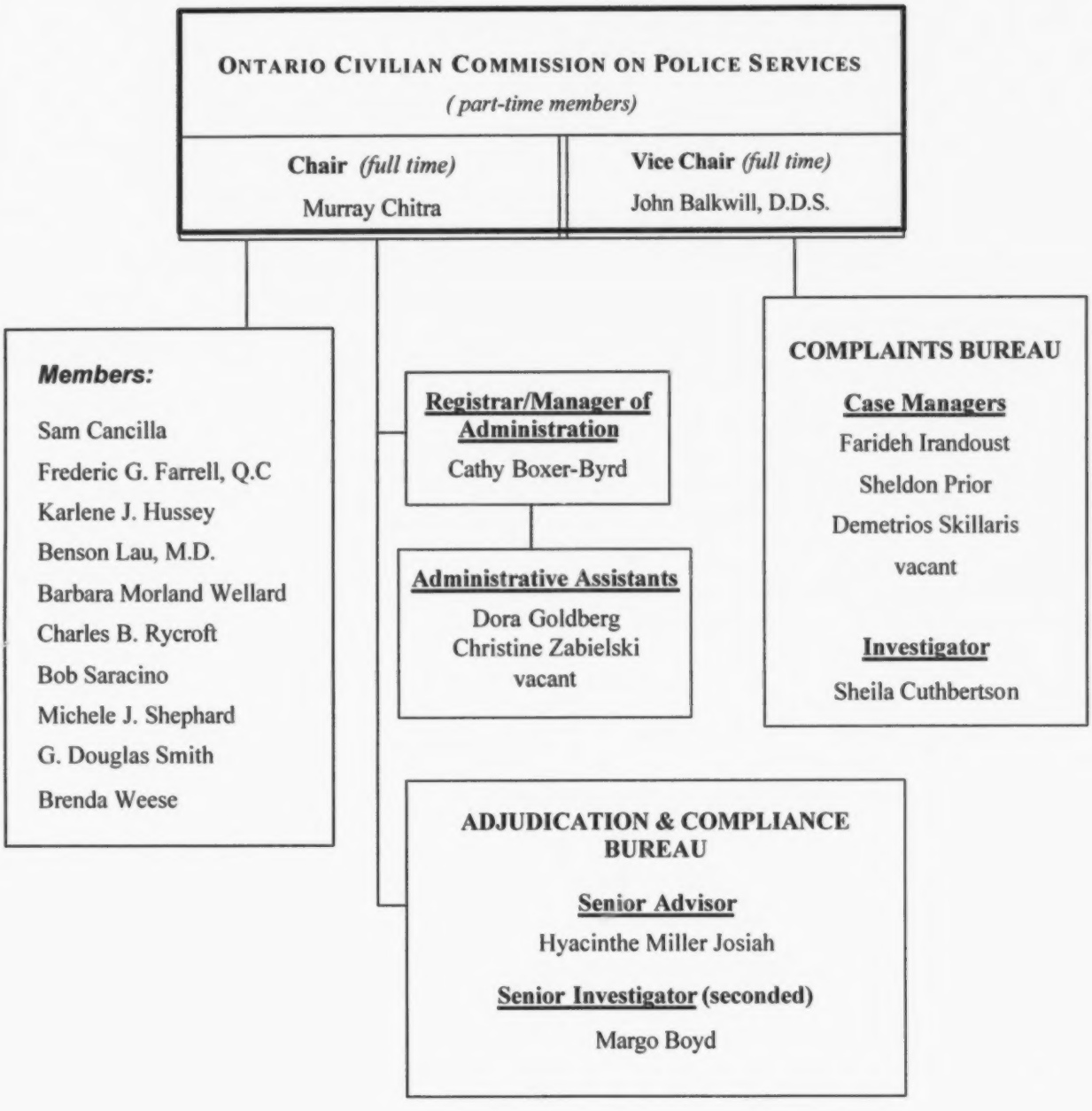
The full Commission meets in Toronto on the second Monday of each month. Meetings are open to the public, except for those matters that deal with confidential personnel, financial or security issues. Members also participate regularly on panels to review local decisions about the classification and investigation of public complaints about the conduct of police officers. They also preside at various types of quasi-judicial proceedings such as hearings.

The Commission is structured into two operational units.

1. The Adjudication & Compliance Bureau deals with matters relating to the Commission's adjudicative functions. These include acting as an appellate body for appeals of police officer disciplinary penalties and a variety of activities relating to the compliance of police organizations with the adequacy and effectiveness provisions of the Act.

2. The Complaints Bureau focuses on the discharge of the Commission's mandate with respect to the administration and review of public complaints, as contained in Part V of the Act.

Organization Chart - 1999



Commission Budget 1999

The annual budget for the Ontario Civilian Commission on Police Services for the calendar year 1999/2000 was $1,662,300. The allocation has remained unchanged for the last two years.

The following is a breakdown of the allocated 1999 budget:

Item	Allocation ($000)
Salaries & Wages	1,201.6
Employee Benefits	224.7
Transportation & Communications	52.7
Services	153.8
Supplies & Equipment	28.5
Transfer Payments •	1.0
Total	1662.3

• Statutory Appropriation: Hearings under the *Police Services Act*

MEMBERS OF THE COMMISSION

Murray W. Chitra – Chair

Prior to his appointment to the Chair of the Commission, Mr. Chitra was the Legal Director of the Ontario Insurance Commission (OIC) for four years. As well, Mr. Chitra worked for ten years with the Legal Services Branch of the Ministry of Correctional Services assigned for six years as Legal Director. He was called to the bar in Ontario in 1980. Mr. Chitra is the President of the Society of Ontario Adjudicators and Regulators (SOAR) and Vice-President of the Council of Canadian Administrative Tribunals (CCAT).

John A. Balkwill, D.D.S. – Vice-Chair

Before joining the Commission, Dr. Balkwill practiced dentistry from 1971 – 1999. He served on the Board of Canadian Ports Corporation for nine years and additionally, was Chair of the Ports Canada Police. Dr. Balkwill is the past President of his region's Rotary Club and was a founding member of his community's Chamber of Commerce.

Sam Cancilla – Member

Mr. Cancilla is a businessman, who served as a City alderman from 1985 to 1992 and was a municipal representative on his community's Police Services Board. He was instrumental in building a new police headquarters in his community and introducing downtown storefront policing and bicycle patrols on the waterfront. Mr. Cancilla has been active in numerous community groups. This includes co-founding the local food bank and sports hall of fame and past Chair of the business improvement area. He is currently the President of Victoria Village and the Armory Restoration Committee.

Frederic G. Farrell, Q.C. - Member

Mr. Farrell is a lawyer who was called to the Bar in 1973, appointed Queen's Counsel in 1985 and received a Master of Law Degree in Labour Relations in 1988. He is currently a counsel with a law firm located in Southwestern Ontario and is the chief agent in Canada for Royal Maccabees Life Insurance Company. Mr. Farrell is a past President, and present Director and Fellow of both local and international distinguished organizations.

Karlene Hussey – Member

Ms. Hussey is a lawyer and businessperson. She served on her community's Police Services Board from 1989 to 1995, acting as Chair from 1991. She was elected to the Board of Directors of the Ontario Association of Police Services Boards in 1992 and served until 1995. Ms. Hussey has been active in community affairs for many years and has served on the Board of her community's General Hospital Foundation. Ms. Hussey is currently a member of the Board of Governors of a highly regarded theatre organization.

Benson Lau, M.D. – Member

Dr. Lau is a family physician. He is currently the Medical Director of a medical center located in central Ontario. Until his appointment to the Commission, Dr. Lau was Chair of a Southeast Asian Community Police Liaison Committee as well as presently acting as Vice-President of the Mon Sheong Foundation.

Barbara Morland Wellard – Member

Ms. Wellard was called to the bar in 1980 and is currently a partner in a law firm located in a Northern community. She served as part-time member of the Board of Inquiry under the authority of the *Police Services Act*, 1990 and was a founding member and Chair of the Board of a Transition House, which housed and assisted abused women and their children. Ms. Wellard has also been involved with many other community organizations.

Charles B. Rycroft – Member

Mr. Rycroft is a businessman and has been a manufacturer for 28 years. He is a veteran of the Royal Canadian Armored Corps and the Royal Canadian Air Force, serving from 1943 to 1946 and is past president of the Ontario Regiment Association and his region's Rotary Club. Mr. Rycroft served as Special Investigator and Intelligence/Liaison Officer for the LLBO from 1982 to 1989. He was also a member for two school boards in his community and serviced as a member of the Guaranty Trust Advisory Board.

Bob Saracino – Member

Mr. Saracino served as Mayor of a community located in the Southwestern part of the Province from 1977 – 1995. Mr. Saracino has extensive experience working on community commissions and boards and has acted as Commissioner of his community's Hydro Electric Commission, Director of the local Chamber of Commerce and Director of region's General Hospital Board. He is currently a Regional Councilor and serves on a Physician Resources Planning Task Force in his community.

Michele J. Shephard – Member

Ms. Shephard is a past member of the Board of Directors, Women's Habitat of Etobicoke, a shelter for abused women and their children. She chaired the Fund Raising Committee for four years and Properties Committee for three years. Ms Shephard was also a volunteer with the Children's Aid Society of Metropolitan Toronto and has been involved in many community fund raising activities in the Greater Toronto Area. Ms. Shephard is a former member of the Toronto Real Estate Board and since 1974 has been a successful businesswoman.

G. Douglas Smith – Member

Mr. Smith is a lawyer who was called to the Bar in 1975 and is the founding member of the law firm of Smith Hardy & Miller. He is a former member of his community's Volunteer Fire Department and also a former member of the Council of the Canadian Bar Association Ontario and is a former Director of the Almaguin Health Services Board.

Brenda Weese - Member

Mrs. Weese is a nurse currently working the geriatric field. Her work experience includes nine years in municipal government; eight years as Reeve of her municipality and one year as Warden of an Eastern county. Mrs. Weese served on the executive for the Business and Professional Women's Club. She also served two years as chairperson of the Social Service Committee and one year as chairperson of the Waste Management Committee. Mrs. Weese is active in local hospital and Children's Aid Society fundraising and served a two-year term on the area's Children's Aid Society Board of Directors.

The members of the Commission are representative of all areas of the Province including the Northern, Eastern and Western regions.

The Year in Review

Inquiries, Investigations and Fact-Finding Reviews

Section 25 of the *Police Services Act* provides that the Commission may, "at the Solicitor General's request, at a municipal council's request, at a board's request or of its own motion, investigate, inquire into and report on:

(a) the conduct or the performance of duties of a police officer, a municipal chief of police, a special constable, a municipal law enforcement officer or a member of a board;

(b) the administration of a municipal police force;

(c) the manner in which police services are provided to a municipality;

(d) the police needs of a municipality.

Initiation of a section 25 inquiry is a serious, resource-intensive process with the potential for negative consequences for members, chiefs of police and police services boards found to be in non-compliance. These can include demotion, dismissal, suspension or revocation of an appointment.

An inquiry is commenced after the Commission is satisfied that based on a review of the evidence that has been collected through a formal investigation, this is the only remedy available.

In 1998 the Commission initiated an innovative approach to addressing those issues which were deemed to be of concern, but not falling within the parameters of a full scale inquiry – the Fact-Finding review. Staff completed two fact-finding projects in the York Regional Police Service and the Toronto Police Service, following requests from the Police Associations for formal inquiries pursuant to section 25 of the Act. Summaries of the findings can be found in this report.

In April 1999, the Ottawa-Carleton Regional Police Association and the Board requested the Commission conduct an independent review into an investigation concerning a deputy chief of police. An investigation pursuant to section 25 of the Act was completed in November 1999.

During the past year the Commission launched another new initiative – formal follow-up of implementation of Commission decisions with respect to the disbandment, amalgamation or restructuring of police services. An interim follow-up was conducted in Oxford Community Police Service (amalgamation), timed in advance of the departure of the previous chief of police. Full reviews were carried out in Chatham-Kent (disbandment) and Haldimand-Norfolk (disbandment).

Noteworthy Decisions

Appeals and Judicial Reviews - Ontario Court of Justice

A) Relating to Inquiries:

May 1999 – Wayne Tremble (Belleville Police Service)

During 1991 and 1992, the Commission received complaints about the administration of the Belleville Police Service and a scheduled inspection of the police service was expedited. At the conclusion of the inspection, the Solicitor General requested the Commission conduct an inquiry pursuant to section 25 of the Act into the administration of the Belleville Police Service.

During October 1992, an inquiry commenced focusing on the conduct and performance of, the Chief of Police, the Deputy Chief and the police services board. During March 1994, the scope of the inquiry was narrowed to the performance and conduct of the deputy chief.

On July 5, 1994 the Commission tabled a final report containing a number of findings and recommendations. One recommendation was that due to his inability to perform his duties in a satisfactory manner, Deputy Chief Wayne Tremble should be demoted to the rank of Inspector.

Mr. Tremble appealed his demotion to Divisional Court and in November 1997, the Court substantially upheld the Commission conclusions. The issue of penalty was remitted back to the Commission for Mr. Tremble to make submissions.

After the hearing on the issue of penalty, the Commission's decision issued February 1998 ordered that Mr. Tremble be demoted to the rank of Inspector for a minimum of two years and complete a program to improve his oral communication skills. This decision was further appealed and was dismissed in May 1999.

In June 1999, Mr. Tremble filed a motion for a stay at the Divisional Court, however, two months later the leave to appeal was denied and the demotion to Inspector commenced.

B) Relating to Disciplinary Appeals:

June 1999 - Edward Hegney (Toronto Police Service)

During March 1996, a Trials Officer determined that Staff Inspector Hegney had disobeyed a lawful order and was guilty of insubordination. Staff Inspector Hegney appealed the decision to the police services board but was informed in December 1997, that his appeal had been denied.

In July 1997, Staff Inspector Hegney filed a motion for an extension of time to bring an appeal to the Commission. He asserted that he did not file an appeal within the required 30

days because he was preoccupied with other proceedings related to his situation and was awaiting the release of further information.

The Commission held a hearing on the motion and noted that throughout the process, Mr. Hegney had the benefit of experienced legal counsel and had met other legislated time lines. The Commission panel noted that the delay was not merely a matter of a few days - it was several months and the penalty at issue was a reprimand, the lightest sanction available to the Hearing Officer. The motion was denied.

Staff Inspector Hegney subsequently appealed to the Divisional Court. On June 1, 1999 the Court determined there was no jurisdiction to hear the appeal, as the legislation did not provide a right to appeal the Commission's decision not to grant an extension of time.

June 1999 – David Guenette (Ottawa Carleton Regional Police Service)

Police Constable Guenette had been a member of the service for 16 years without significant blemish on his record. The officer, while on duty and in uniform, used a card left by a stranger in an ATM machine to steal $200. Constable Guenette was subsequently charged with the criminal offence of theft.

Constable Guenette avoided a criminal record by agreeing to admit responsibility for the offence, participate in a diversion program, make full restitution and perform community service. Constable Guenette was charged under the Code of Conduct of the *Police Services Act* with discreditable conduct and was advised that the penalty of demotion or dismissal could be imposed if he were found guilty of the charges. He pled not guilty.

In his decision, the Hearing Officer referred to cases dealing with similar disciplinary infractions and noted in those cases there was evidence of community support, good character and mitigating circumstances which were not present in Constable Guenette's case. He concluded that Constable Guenette's usefulness as a police officer was so diminished that he could no longer remain on the force. The Hearing Officer felt the only choice was to impose a penalty of resignation within seven days and failing that, dismissal.

The officer appealed the penalty and at the hearing held before the Commission, Counsel for the Appellant was permitted to submit new evidence that had not been introduced at the disciplinary hearing. This included letters of support and two affidavits.

The Commission found that Constable Guenette's conduct was highly disreputable and warranted significant punishment. The Commission considered his ability to reform and the fact that the significant damage to the Service was not irreparable. Given their previous decisions dealing with similar offences, the Commission allowed the appeal and varied the penalty to a demotion to third class constable for a minimum period of one year.

The police service appealed the Commission decision. The Court dismissed the appeal, finding that : "The Commission had before it, as the Hearing Officer unfortunately did not, a great deal of material bearing on some of the important matters to be considered in the penalty process... The reasons reveal that the Commission analyzed the case with

meticulous care, taking into account proper legal principles and considering the important factors in determination of the right penalty to impose in this particular case. The Commission arrived at a reasonable conclusion".

The appeal was dismissed.

C) Appeals Relating to Complaint Reviews

September 1999 - Neil Browne (Ontario Provincial Police)

After conducting a review, the Commission returned a complaint to the Commissioner of the Ontario Provincial Police as an allegation of serious misconduct/unsatisfactory work performance. At issue was the involved police officer's failure to attempt to obtain a search warrant for a blood sample from a driver who had been involved in a motor vehicle collision.

The officer requested a judicial review of the Commission's decision citing among other things, the lack of specifics in the Commission's decision in returning the matter to the police service.

The Divisional Court quashed the Commission's decision (rendered null and void) citing the reason that the Commission had not provided sufficient reasons in its decision.

The Commission has applied for leave to appeal to the Court of Appeal.

September 1999 - Attalah Sadaka and Mark MacMillan (Ottawa-Carleton Regional Police)

The Commission, again on review, returned a matter to the Chief of the Ottawa Carleton Regional Police Service as an allegation of serious unsatisfactory work performance against two officers. In this case, the alleged impugned actions of the police officers involved stopping a suspected stolen vehicle when in fact the rightful owner was driving the vehicle.

The officers commenced a judicial review application citing that the Commission did not have the jurisdiction to make an allegation of unsatisfactory work performance without regard to Regulation 123/98 of the *Police Services Act* (a regulation which governs when a Chief of Police wishes to make an allegation of unsatisfactory work performance). Further, the officers argued that the Commission failed to specify adequately its concerns over the officers' actions nor did it provide sufficient reasons for its decision.

This matter is scheduled to be heard in the Court of Appeal in the year 2000.

Municipal Restructuring

The pace of police restructuring slowed during 1999 and the number of requests for hearings into disbandments and amalgamations fell from the previous year. The Commission released four decisions with respect to disbandments in North Glengarry, Point Edward, North Perth and Wellington County. The text of these decisions can be found in this report.

Professional Development

We continue to support enhancement of civilian oversight. The Senior Advisor served as a member of the planning committee for the 1999 conference of the Canadian Association for Civilian Oversight of Law Enforcement and co-facilitated a strategic planning session for CACOLE in St. John, New Brunswick.

The Commission is a strong proponent of informal resolution and mediation. In November, members and staff participated in a three-day Dispute Resolution Training program under the auspices of the Ministry of the Attorney General Dispute Resolution Office. In addition to learning ADR fundamentals, there were opportunities for role playing and application of principles and processes.

Chart - The Adjudicative Process

(Adjudicative Process is the same for disbandment, reduction and amalgamation hearings.)

Application for hearing received

Acknowledgement & Protocols
sent within 5 working days

Draft proposal received and reviewed
by Commission staff

Final proposal tabled at the
Commission meeting

Panel members determined

Hearing date set and
public notices posted

Hearing

Commission's decision rendered normally
within 30 days

Disbandment proceeding

Section 40 Hearings

The Commission ensures that no municipal force is abolished unless arrangements have been made to meet the policing needs of the community. Any new arrangement must provide the infrastructure, (i.e. staff, equipment and facilities) to ensure adequate and effective police services. To this end the Commission reviews proposals accepted by Councils and considers all public comments and submissions.

Section 40 of the *Police Services Act* allows police services boards to terminate the employment of a member of a police force for the purpose of abolishing the force if the Commission consents and if the abolition does not contravene the Act.

When a municipality requests the approval of the Commission for the disbandment of their police service, they must supply the Commission with copies of resolutions passed by the municipal council and police services board. The Commission requests a copy of the proposal for the provision of alternative policing services and also ascertains whether severance arrangements have been made with those members whose employment would be terminated if the proposal is accepted.

It is not the Commission's function to judge whether or not what is being proposed is economical or superior to what may already be in place or any other alternative. The Commission's focus is to determine whether the proposed arrangements meet the requirements of the Act. It is not the function of the Commission to determine what constitutes appropriate severance arrangements. That is a matter for bargaining between the parties, and, in the absence of agreement, for arbitration.

A public meeting is held to hear presentations and receive submissions. Upon the completion of the hearing, the Commission renders a written decision.

During the year 1999, the Commission conducted five disbandment hearings and four decisions were released. These were in Wellington County (Fergus/Harriston/Palmerston), North Perth (Listowel), Point Edward and North Glengarry (Stormont/Dundas/Glengarry). These municipalities entered into contracts with the Ministry of the Solicitor General to have the Ontario Provincial Police provide policing services. The St. Clair Beach decision was rendered in January 2000.

North Perth (Listowel) Police Service

March 1999

In January 1999, Council unconditionally approved the selection of the Ontario Provincial Police (OPP) as the policing provider for the Town of North Perth and applied to the Commission for permission to disband the Listowel Police Service.

Upon receiving the required application and documentation from the Town of North Perth, the Commission determined that a public meeting would be held in Listowel on March 4, 1999. Notices to this effect were published in local newspapers.

The OPP proposal was based upon an integrated detachment model and provided for 17.71 full time uniformed officers and one clerical worker dedicated to policing the Town of North Perth. Additionally there were available uniformed police officers from Perth County. Sebringville OPP Detachment was the host detachment and would provide an increase of 2.60 front line constable positions, a supervisor to constable ratio of one to seven, and an officer to citizen ratio of one to 656 citizens.

Police services would be provided 24 hours per day, seven days a week, deploy a 12 hour platoon schedule, and three to four officers would be available at any given time. The Town of North Perth would be divided into three patrol zones consisting of the former Townships of Elma and Wallace, and the former Town of Listowel. All uniformed members of the Listowel Police Service had received offers of employment with the OPP.

The North Perth OPP would be dispatched by the OPP Communications Centre in Mount Forest. This operation has 24 full time and two part time dispatchers, six sergeants and one staff sergeant. An emergency 911 system was in place, together with public toll free lines. A local number would also be available to call the North Perth OPP.

The North Perth OPP would be equipped with five marked vehicles, one unmarked vehicle and the Ontario Municipal and Provincial Police Automated Co-operative (OMPPAC) would continue as the records management system.

The existing Listowel Police Service building would be renovated to accommodate the increase of staff and to provide an enhanced policing capability for the community. The existing Listowel OPP station would be closed. Additionally, a community policing office would be established in the Village of Monkton.

Following the hearing, Commission members reviewed the architectural plans and toured the facilities which were undergoing renovations.

Taken in its entirety, the Commission was satisfied that the OPP proposal provided adequate and effective policing for the new community of North Perth. At the hearing, politicians and the police expressed their support for the proposal. Members of the community were encouraged to participate and there were no objections from the public who were present.

On May 3, 1999 pursuant to section 40 of the Act and subject to compliance with an order pertaining to arbitration and severance, the Commission consented to the abolition of the Listowel Police Service. Policing would be provided by means of a contract with the Solicitor General for the services of the Ontario Provincial Police.

The Commission publicly acknowledged the Listowel Police Service for its 135 years of service to the citizens of the Town of Listowel and to the Province of Ontario for a job well done.

Wellington County
(Fergus, Harriston and Palmerston)
April 1999

For many years, the OPP and three municipal police services provided law enforcement in the County. In December 1998, a new County Board passed a resolution calling for acceptance of an OPP proposal and disbandment of the three municipal services. Copies of these resolutions were forwarded to the Commission and a public meeting was scheduled for April 22, 1999. Notice was published in a number of local newspapers.

The meeting took place as scheduled where a total of fourteen individuals made presentations or submissions. The Commission received written material and various documents in support of the positions taken.

Essentially, what was proposed was an amalgamation of the existing municipal and OPP local resources. In practice this would mean deployment of 102 uniformed officers, 15 contract guards and 11 civilian employees. A local auxiliary program with 15 volunteers was planned. Overall, this represented 84.20 dedicated uniformed municipal officers in the County with an officer to citizen ratio of one to 754.

The proposed arrangement represented a reduction in municipal policing administration and an increase in constable strength (69 to 73). The dedicated clerical support and middle management level remained unchanged.

All of the police officers and civilian members were offered employment with the OPP. The number of contract guards would be increased from 12 to 15 and four additional part time dispatchers would be added to the Mount Forest Communications Unit.

It was proposed that the amalgamated resources would be deployed from four operational centres and have access to 11 community policing offices. Renovations of almost one million dollars would be spent in Palmerston and Fergus, resulting in a substantial benefit to police and the community members.

Communications and dispatch services for the County would be provided 24 hours per day, 365 days a year from the Western Region Telecommunications Centre located in Mount Forest. Citizens would be able to contact the police using an enhanced 911 service for emergencies or a free general 1-888 access number for other matters. A public education campaign was planned to advise residents of this change. The Commission was advised that the communications system covered the complete County with no "dead" zones to impair officer safety.

A total of 24 marked cruisers and five unmarked vehicles would be allocated to municipal policing matters. Four snowmobiles would be maintained for winter duties and one boat was assigned to the County for marine duties on local waterways. All offices would be

converted to OMPPAC and all administrative and operational records would be coordinated and kept in accordance with OPP policies.

The Commission found that the proposal was very similar to the existing municipal deployment. The total uniformed strength would increase slightly from 82.91 to 84.20, while clerical support and the number of sergeants remained the same. Three chiefs of police were no longer required, so the total constable strength increased improving community policing by permitting two constables to work exclusively in local high schools and one constable to undertake general community services.

Overall, the dedicated municipal officer to population ratio would be one to754. This was a decrease for Fergus, Palmerston and Harriston and an increase for the balance of the County. Taken as a whole, it was an improvement from the current County wide ratio of one to 766.

The Commission acknowledged the administrative and organizational benefits in consolidating the current four services into one integrated structure and were satisfied that the proposed level of staffing, deployment and supervision would allow for adequate and effective policing. This conclusion is specifically based on improvement in current County wide policing levels, the increase in dedicated community policing resources, County wide 24 hour policing, the deployment of an expanded auxiliary unit, and the favorable comparison to staffing in similar rural areas.

The Commission was satisfied that the proposed policing arrangement would provide the necessary infrastructure and administration to meet the requirements of the Act and allow for adequate and effective policing in the County of Wellington. On September 7, 1999, the Commission consented to the abolition of the Fergus, Harriston, and Palmerston Police Services. Policing in the County of Wellington would be provided by means of a contract with the Solicitor General for the services of the Ontario Provincial Police.

The Commission was also well aware that there were outstanding issues respecting unresolved 1999 working agreements with the different police associations. The Commission directed that, in the event the Board and the three associations were unable to conclude severance agreements within 45 days of the date of the decision, any unresolved issues would proceed forthwith to arbitration.

Point Edward Police Service

April 1999

The Village of Point Edward is an urban community of approximately 2400 residents situated in south west Ontario. The Village had its own police service for more than 100 years consisting of a chief of police, five patrol constables and one clerical support person. The Service provided policing 24 hours a day with a minimum of one officer on duty through rotating 10 hour shifts and had one marked cruiser and a marked van. The supervisor to constable ratio was one to five, and a police to population ratio of one to 400.

In 1997, the Point Edward Police Services Board and the Council made a unanimous decision to seek a Request for Proposal from the Sarnia Police Service, the Point Edward Police Service and the OPP.

In November 1998, Council and the Board unanimously passed a resolution accepting the OPP proposal. The Village applied to the Commission for permission to disband the Point Edward Police Service and at the Commission's March 8, 1999 meeting, it was decided that a public meeting would be held in Point Edward on April 28, 1999. Notices to this effect were published in local newspapers.

The OPP proposal was based upon an integrated detachment model with the Petrolia OPP Detachment as the host. There would be two patrol zones, i.e. the Village itself and a Provincial Highway zone consisting of 15 kilometers of Highway 402 and 11 kilometers of Highway 40 within the city limits of Sarnia.

Under the proposed model, there would be 24 hour policing with 12 hour rotating shifts on a four-platoon system with a minimum of one officer working days and nights. With two patrol zones, each zone would provide backup to the other if and when needed. The Provincial Highway complement would consist of five patrol constables with the Point Edward OPP comprised of one dedicated sergeant, four patrol constables and one clerical staff person. The supervisor to constable ratio would be one to four and a police to population ratio of one to 480.

All uniform and civilian members of the Point Edward Police Service would be offered employment with the OPP and the Chief would appear before a rank determination hearing to determine his rank if he chose to stay.

The Petrolia OPP Detachment, which was the host detachment, had one staff sergeant, six sergeants (two contract), 46 Constables (13 contract) and three clerical staff. Additionally, there was also a 20-member OPP auxiliary police unit operating out of the detachment to which the Village of Point Edward would also have access.

The existing Point Edward headquarters would be used by both patrol zones and would be open to the public from 8:30 a.m. to 4:30 p.m., Monday through Friday.

The existing 500 square foot premises was to be fully renovated to 2400 square feet, and would include a handicap access washroom, bcker rooms, showers, secure storage for officers' weapons and long guns, interview rooms and processing for suspects. Council set aside $70,000.00 for the cost of these renovations. With respect to jail facilities, the Village would continue to use the Sarnia jail which contains 99 cells.

Under the proposal, officers would be dispatched from the OPP Communication Centre in Chatham-Kent which has a 24-hour operation with 18 full time dispatchers, six sergeants and one staff sergeant. A communications sergeant is on duty 24 hours a day for operational support. An enhanced emergency 911 system would be available together with public toll-free lines to the Communications Centre 24 hours a day.

There would be three fully marked cruisers and the Point Edward OPP was equipped with one intoxilyzer, two alcotesters, two radar units, Sig Sauer semi-automatic pistols for each uniformed member, shotguns and long guns and one spike belt. Records management would be switched to the OMPPAC currently used by the OPP.

The proposal appeared to significantly raise local policing capabilities. There would be additional front line officers, reduced police administration and better preparation for the provincial adequacy and effectiveness standards. It also allowed for more advanced equipment, communications and records management.

Taken in its entirety, the Commission was satisfied that the OPP proposal would provide adequate and effective policing for the Village of Point Edward. All of the presenters at the hearing expressed their support and there were no objections from the public who attended.

No agreement had been reached with the Chief of Police and while each officer and the civilian support person had been offered employment with the OPP, no agreements had been reached.

On July 19, 1999, pursuant to section 40 of the Act, the Commission consented to the abolition of the Point Edward Police Service in order that policing could be provided by means of a contract with the Solicitor General for the services of the Ontario Provincial Police.

The Commission's consent was conditional subject to the parties reaching an agreement on the issue of termination and severance or agreeing to have the issues resolved by arbitration.

The Commission acknowledged the Point Edward Police Service which served the citizens of the Village of Point Edward and the people of Ontario for over 100 years.

North Glengarry Police Service

May 1999

The Counties of Stormont, Dundas and Glengarry are located along the north shore of the St. Lawrence River at the eastern limit of the Province of Ontario. The mixed rural and urban region has a population of 61,951.

The North Glengarry Police Service (formerly Alexandria) was established in 1895 and policed the former Town of Alexandria which had a population of approximately 3,500. There were five full-time police officers and two part-time officers for a uniform complement of 7.5 officers. There was usually one constable on duty, except on Friday and Saturday in the summer months, when there were two constables during the evening and early morning hours. All officers were generalist constables and in the event of a serious occurrence, the force relied on the OPP.

Simultaneously, the OPP was operating five detachments located in Long Sault, Winchester, Morrisburg, Lancaster and Maxville. Under the direction of one inspector, one staff sergeant and eight sergeants, policing was provided 24 hours a day, seven days a week with an authorized complement of 98 uniformed officers and 11.6 civilian employees. Additionally, there were six part-time guards and an auxiliary unit from Long Sault with an authorized complement of 30 officers.

The OPP were providing both provincial and municipal policing. The Commission, whose main concern is municipal policing, learned that aside from dispatchers, part-time custodial staff and auxiliaries, the combined North Glengarry Police Service and OPP staff dedicated to municipal policing in the United Counties was 75.41 uniformed officers and 9.82 civilian employees.

In 1997, in anticipation of municipal restructuring, the United Counties began to examine policing services. The Cornwall Police Service, Alexandria Police Service and the OPP were requested to submit proposals for a single United County police service. In September 1998, the United Counties Standing Committee on Finance recommended and Council accepted the OPP proposal.

Subsequently, the Commission received a request to convene a meeting under section 40 of the Act and it was agreed that this would take place in Alexandria on May 19, 1999. Notice of this meeting was published in local newspapers.

The OPP proposed to integrate all policing in the United Counties under a single contract. The integrated County arrangement would consist of 100.5 uniformed officers and 12.6 civilians. This would provide the United Counties with 24 hour, seven days a week policing and continue the arrangement of six part-time guards and an auxiliary unit of 30 officers.

Of this complement, 30.09 uniformed officers and 3.78 civilians would be engaged in provincial policing. This corresponded with the existing arrangement. The proposed municipal complement would consist of 70.41 uniformed officers and 8.82 civilians representing a reduction of five uniformed officers and one clerical worker. Additionally, the employment of the six part-time North Glengarry Police Service dispatchers would be terminated.

Staff would operate from five detachments and seven Community Policing Offices. Four existing OPP detachments would continue to be open, however, the Maxville detachment would be re-established as a Community Policing Office. The North Glengarry Police Service building was poorly located so it was proposed to create an Alexandria detachment two kilometers south on Main Street.

Officers would be equipped with 23 marked cruisers, three unmarked cars, six plain cars, one van and one truck. Two boats would provide marine coverage. All officers would be provided with Sig Sauer semi-automatic pistols in addition to portable and car radios. Other equipment included five Borkenstein Breathalyzers, eight Alcotesters, eight Radar Units, and eight spike belts. All officers would have access to OMPPAC.

Dispatching would be provided from the OPP Communications Centre in Kanata. This service has fully enhanced 911, a toll free "888" number, cellular phone service and bilingual service. The Kanata facility is staffed by one staff sergeant, six sergeants, 27 full-time and one part-time dispatcher. One sergeant is on duty at all times.

We were informed that all members of the North Glengarry Police Service had been offered employment with the OPP, however, there was still a reduction of five officers and one clerical worker in the proposed municipal complement. While this could be attributed to a flattening of management, the Commission compared the proposed structure to communities of a similar character, size and need.

In July, 1999, the Commission had approved a proposal for a unified OPP policing arrangement for the County of Wellington that bore many similarities to this case.

Wellington County and the United Counties are both mixed rural and urban communities with similar populations, households and lengths of provincial highways. The United Counties, however, is almost 500 square kilometers larger and has 500 more kilometers of roads. This, along with the 90 kilometers of waterways, would suggest a greater challenge for municipal policing in the United Counties.

The approved integrated arrangement for Wellington County called for the deployment of 102 uniformed staff and 11 civilians. The total ratio of officers to citizens in this arrangement is one to 622.

The proposed integrated arrangement for the United Counties called for the deployment of 100.5 uniformed staff and 12.6 civilian staff. Leaving aside summer residents, the total proposed ratio of officer to citizen in the integrated arrangement was one to 616.

However, it was the proposed municipal policing complement that needed to be closely examined. The municipal officer to citizen ratio in Wellington County was one to 754. The Commission also compared recently approved municipal policing ratios in a number of mixed rural and urban communities including Chatham-Kent at one to 738, Haldimand-Norfolk at one to 726, Oxford at one to 766 and Leamington-Mersea at one to 743. The proposed municipal police to citizen ratio for the United Counties was one to 800. To the Commission, this ratio was too low and should be increased from 70 to 80 uniformed officers.

It was noted that the proposed arrangement for facilities was excellent and there was appropriate consideration for equipment.

The hearing on May 19, 1999, was attended by members of the two police services, municipal officials, and one member from the general public. All present expressed support for the OPP contract proposal. The absence of the general public gave the impression that the previous meetings may have satisfied any concerns.

On October 15, 1999, pursuant to section 40 of the *Police Services Act* the Commission consented to the abolition of the North Glengarry Police Service in order that policing could be provided by means of a contract with the Solicitor General for the services of the Ontario Provincial Police.

The consent was subject to the dedicated municipal policing complement being increased to a minimum of 80 uniformed officers within 60 days of the decision and that the parties resolve their outstanding disagreements on contracts, status, and severance within the same period or be referred to arbitration. The arbitration was to commence no later than 90 days after the date of the decision.

The Commission acknowledged the North Glengarry Police Service, formerly the Alexandria Police Service, which had served the citizens for over 100 years.

Fact Finders Report: York Regional Police Service

February 1999

An inspection into the administration and operations of the York Regional Police Service was conducted from November 1996 to February 1997 by the Policing Services Division, Ministry of the Solicitor General and Correctional Services. During the inspection, there were allegations made by members against the chief of police. In March 1997, the OPP commenced an investigation into allegations of criminal misconduct identified during the inspection.

Meanwhile, the inspection report was completed in May 1997 and it concluded that the Service "was generally delivering an adequate level of policing", however, there were "a number of critical issues" that needed to be addressed. The report identified deficiencies in administration (financial management, human resources management and labour relations, training, multi-year planning) and operations (procedural consistency, staffing, technology and equipment).

The Board and the Service subsequently established a number of committees to work on implementing the recommendations.

In February 1998, the Police Association wrote to the Solicitor General and Minister of Correctional Services requesting that the Commission conduct an investigation under section 25 of the *Police Services Act* into the conduct or the performance of the Board. The Minister forwarded this to the Commission "for attention as the Commission sees fit".

The request was discussed by the Commission at the March meeting and it was decided that prior to embarking on a formal investigation, Commission staff should meet with the stakeholders to gather information. This fact finding was conducted from April to September 1998.

The subsequent fact-finding report found that the York Regional Police Service had recently been demoralized by a number of "hot stories" that had generated media scrutiny and cast the stakeholders into an unflattering light. Most of the concerns paralleled the issues identified by the Ministry inspection report.

It was felt that no useful purpose would be served by mounting a full-scale public inquiry into issues that were largely historical. Steps had been taken to restructure; personnel had been recruited, strategic planning was underway and the budget had been increased.

The Commission concluded by commending all the stakeholders for their commitment and their cooperative efforts on addressing their internal problems.

Report on a Fact-Finding into Various Matters With Respect to the Disciplinary Practices of the Toronto Police Service
July 1999

In April 1998, the Toronto Police Association wrote to the Solicitor General and Minister of Correctional Services requesting the Commission initiate a formal investigation into the Toronto Police Service discipline system. The Association alleged there was a double standard for discipline – senior officers were being treated more leniently than front-line officers and civilian staff.

The Commission asked the Board to provide an extensive report on their discipline process from January 1, 1996 to May 11, 1998. Simultaneously, the Commission surveyed eight regional police services and the OPP for allegations of misconduct for a thirty-month period.

As of December 31, 1997 the member population of the police services surveyed was 20,075 of which 14,620 were police officers and 5,455 were civilians. In the ten police services reporting, there were 1,884 allegations of misconduct. In Toronto, there were 1,135 allegations of misconduct, 798 against constables, 30 against middle managers and four against senior officers and command staff.

Police constables constitute the largest proportion of the service and generally have ongoing contact with the public that can create the potential for complaints. Middle managers have fewer front-line contacts, are supervisors of constables and civilian staff and occupy specialist positions.

The Commission found a noticeable difference in Toronto between the rate of allegations for constables and middle managers. Among the nine other police services, misconduct reported for middle managers averaged 9.8% while in Toronto it accounted for only 3.5%. This was a surprising fact. There may be several factors explaining the difference but the gap was sufficiently large to raise concerns about Service structure and human resources management.

Only four of the police services reported discipline activity for civilians: Toronto, Hamilton-Wentworth, Ottawa Carleton and York. Only three services reported incidents of discipline involving senior officers with Toronto reporting .5%, which was half the average. Given the very small sample it was not reasonable to conclude there is differential treatment for senior officers and command.

In Toronto, compared to other police services, there was more agreement on disposition and most of the penalties imposed were at the lower end of the range.

Overall, there was no clear evidence that there was one standard for Association members and another for Senior Officers, however, it was evident that the Toronto disciplinary system required improvement.

The discipline system was unnecessarily complicated, frequently reactive, slow, not fully transparent and unnecessarily bureaucratic. It was not sufficiently remedial and the lack of clarity encouraged speculation and concern.

We acknowledged there were individuals who had tried to make it better and who had made some progress, however, considerable effort would be required to create a system of discipline that was credible to officers, civilian members and to public complainants, victims or other members of the community.

The Commission strongly recommended that outstanding issues be addressed by the Chief, the Service and the Board and to ensure that this was attended to in a timely way, it was directed that a detailed report be submitted by December 31, 1999.

Chatham-Kent Police Service – One Year After
November 1999

On August 14, 1998 the Commission stated that pursuant their authority under section 40 of the Act, they would consent to the abolition of the Chatham, Tilbury, Dresden and Wallaceburg Police Services to permit the creation of the Chatham-Kent Police Service.

In September 1999, as part of its oversight of the adequacy and effectiveness of policing, the Commission directed staff to conduct a progress report on the implementation of the Chatham-Kent Police Service. At the end of the three-day review, Commission staff concluded that the amalgamation had been largely successful and the establishment of the Chatham Kent Police Service was progressing well.

Members of the police service were found to be highly motivated and all the stakeholders were committed to working towards a common goal. The interviews revealed high morale and a community that appeared to be generally satisfied with the service and their police. Many new and creative initiatives had been implemented and productive partnerships had been formed with local educational institutions, service clubs and business organizations.

However, policing is not a static endeavor and it was recommended that since the first year of operations had been completed, it was time for the stakeholders to revisit the first draft and the proposal. It would be necessary to make adjustments and plan strategically to maintain adequate and effective policing in the future.

In the year that the Chatham-Kent Police Service had been in existence, significant progress had been made. All of the stakeholders – the police services board, the police service and the police association had worked as a team to make the implementation successful. They were commended.

Ottawa-Carleton Regional Police Service
Report of an Investigation Pursuant to Section 25 of the *Police Services Act*
November 1999

On April 27, 1999 the Ottawa-Carleton Police Services Board made a written request for the Commission to conduct an independent review of the handling of the allegations regarding a Deputy Chief of Police. (On April 15, 1999 the Minister had also referred this request for "attention as the Commission sees fit".) These matters were discussed by the Commission and the decision was made to conduct an investigation on its own motion pursuant to section 25(1) of the *Police Services Act*, into the manner in which allegations relating to the Deputy Chief were handled.

Over the course of the five-month investigation, the Commission investigators interviewed twenty people and reviewed in excess of 2,000 pages of documents. At the conclusion, the investigators determined that there was no clear and convincing evidence to support a finding of misconduct against Chief of Police Brian Ford as defined by the *Police Services Act* or the *Criminal Code of Canada*.

The investigation did identify a number of concerns regarding communications, reporting methods, human resource practices, morale and external monitoring. It was the Commission's opinion that the Ottawa-Carleton Police Services Board bore some responsibility for the circumstances for if they had been vigilant and proactive, the situation may have not deteriorated to such a degree. The role of the Board is to ask questions and to hold the Chief of Police accountable and their presence was notably absent during the course of events.

Disciplinary Appeal Process

Notice of Appeal Received
Acknowledgment & Rules of Practice sent within 5 working days
Appellant's briefs received within 30 days
Respondent's briefs received within 30 days of Appellant's briefs
Panel members determined
Tabled at the Commission Meeting
Hearing date set and confirmations sent to all parties concerned
Hearing
Commission's Decision rendered normally within 30 days
Date of Hearing
Charge
Trial Decision and Disposition

The full text of the above-noted cases is available from the Commission upon request.

Appeals of Disciplinary Penalties – Excerpts from 1999 Decisions

Appeal Hearing Date	October 1, 1998
Appellants	Constable Maxwell Lloyd
Respondent(s)	London Police Service
Charge	Constable Lloyd appealed the findings of his conviction on discreditable conduct and deceit. He also appealed the penalty imposed on a conviction of neglect of duty.
Police Service Decision	February 5, 1998 – Reduction in rank to fourth class for 6 months on the conviction of neglect of duty. Reduction in rank to fourth class for a period of 6 months on the finding of discreditable conduct. Dismissal unless he resigned within 7 days on the finding of deceit.
Commission Decision	May 20, 1999 - Reduced the penalty to what was originally suggested by the prosecutor - loss of 16 hours pay.

Appeal Hearing Date	October 13, 1998
Appellants	Constable David Deviney
Respondent(s)	Toronto Police Service
Charge	Constable Deviney appealed the finding and the penalty imposed on his conviction of discreditable conduct.
Police Service Decision	February 4, 1998 - 15 days off (or 120 hours)
Commission Decision	February 10, 1999 – The penalty imposed was within the range available to the Hearing Officer. The appeals against the conviction and disposition were dismissed.

Appeals of Disciplinary Penalties – Excerpts from 1999 Decisions

Appeal Hearing Date	January 20, 1999
Appellants	Constable Richard Mowers
Respondent(s)	Hamilton Wentworth Regional Police Service
Charge	Constable Mowers appealed his convictions and the imposed penalty on two counts of neglect of duty.
Police Service Decision	January 16, 1998 – Reduction in rank of one grade for a period of six months.
Commission Decision	March 18, 1999 – The appeal against the convictions and the penalty was denied.

Appeal Hearing Date	January 27, 1999
Appellants	Cadet John J. Farrell
Respondent(s)	Durham Regional Police Service
Charge	A motion was brought on behalf of the Respondent to quash a Notice of Appeal in which the Appellant sought to appeal the December 17th decision and requested an extension of time to appeal.
Police Service Decision	December 17, 1997 – Dismissed from the Service
Commission Decision	February 11, 1999 – The motion was allowed and the appeal was quashed.

Appeals of Disciplinary Penalties – Excerpts from 1999 Decisions

Appeal Hearing Date	January 29, 1999
Appellant	Constable John Burdett
Respondent(s)	Guelph Police Service
Charge	Constable Burdett was found guilty of two counts of discreditable conduct. He appealed his convictions and the penalty.
Police Service Decision	January 2, 1998 – Demotion for four months from first class to second class constable
Commission Decision	May 13, 1999 – The second charge against Constable Burdett could not stand. Penalty on the remaining count was reduced to seven days loss of pay.

Appeal Hearing Date	April 28, 1999
Appellant	Constable Arthur Byron Sterling
Respondent(s)	Hamilton-Wentworth Regional Police Service
Charge	Constable Sterling appealed his conviction on two counts of neglect of duty and the imposed penalty.
Police Service Decision	September 17, 1998 – Penalty of two days loss of pay (16 hours) for neglect of duty. A reprimand was issued on the other two convictions.
Commission Decision	August 10, 1999 – The appeal was denied.

Appeals of Disciplinary Penalties – Excerpts from 1999 Decisions

Appeal Hearing Date	July 15, 1999
Appellant ***Respondent(s)***	Constable L. Turgeon Ontario Provincial Police
Appeal	Constable Turgeon appealed a conviction of unlawful or unnecessary exercise of authority.
Police Service Decision	July 10, 1998 – Penalty of ten days time.
Commission Decision	November 15, 1999 – The appeal was denied

Appeal Hearing Date	July 27, 1999
Appellant ***Respondent(s)***	Memis Sipar (citizen), Toronto Police Service, Detective John Schertzer, Detective Ned Maodus, Detective Constable Jonathan Reid, Detective Constable Gregory Forestall, Detective Constable Joseph Miched, Detective Constable Steven Correia
Appeal	An application for leave to appeal was made under section 70(4) of the *Police Services Act*, giving a public complainant the right to appeal a decision when misconduct has not been proven. All other appeals require the approval of the Commission. Accordingly, the purpose of this proceeding was to determine whether leave to appeal should be granted to the Appellant to contest the decision of the Hearing Officer.
Police Service Decision	October 2, 1998 – Charges were dismissed in that the Notice of Hearing had not been served on the officers within six months of the original allegations coming to the attention of the Chief as required by section 69(18) of the Act.
Commission Decision	April 10, 2000 - The motion was granted and the application for leave to appeal was denied.

Appeals of Disciplinary Penalties – Excerpts from 1999 Decisions

Appeal Hearing Date	August 10, 1999
Appellant(s)	Constable Edward Hewitt & Constable Clifford Devine
Respondent(s)	Toronto Police Service
Appeal	Constables Edward Hewitt and Clifford Devine appealed their convictions of neglect of duty and the imposed penalty.
Police Service Decision	April 8, 1998 - Penalty of forfeiture of three days off or 24 hours.
Commission Decision	November 10, 1999 -Appeal against the finding of misconduct was allowed and the penalties imposed were quashed.

Chart - Public Complaints Process

Review Request within 30 days of receipt of Chief's decision

Staff Investigator reviews request and assigns to Case Manager

Case Manager Analysis

Consult with Commission Investigators

Case presented to Commission Members

Legal Advice

Case Review Decision

Case Manager forwards decision to Police Service/Complainant

PUBLIC COMPLAINTS

In addition to being the review body for public complaint decisions, during 1999, the Commission also responded to 400 telephone inquiries per month, forwarded 366 complaints to police services, conducted public education and outreach and liased with police services across the Province regarding public complaints.

When conducting a request for review, the Commission receives the complaint investigation file from the police service as well as submissions from the complainant. Commission case managers analyze the file and prepare a case summary to present to a review panel composed of Commission members.

On review, the Commission may confirm the decision of the Chief or the Commissioner of the OPP, overturn the decision or return the file to the involved police service or another police service for further investigation. The Commission has broad powers that include the right to call a public inquiry as well as make recommendations regarding the nature and delivery of police services in a community.

In 1999 in Ontario, there were 2665 public complaints filed against officers or their service. This is a small increase from the 1998 total of 2538 but still significantly lower than 1992 when the number of complaints was almost 4100.

In 1999, the Commission received 419 requests for review. Approximately 80% of the cases were presented for review within 45 days. The other 20%, took longer owing to a number of factors including, obtaining a legal opinion, the relative complexity of the file and the granting of extensions to make submissions

Further information regarding complaint reviews:

1. 215 of the requests for reviews were the result of the Chief/Commissioner dismissing the complaint as unsubstantiated
2. 102 of the requests for reviews were the result of the Chief dismissing the complaint for being frivolous and vexatious
3. 55 of the requests for reviews were the result of the Chief dismissing the complaint as being brought more than six months after the impugned incident
4. 40 of the request for review involved the initial classification (i.e.) complaint involves the conduct of a members, services and/or policies of the police service
5. 7 of the requests for reviews were the result of the Chief/Commissioner dismissing the complaint as not directly affected

As part of its oversight function, the Commission is provided with complaint statistics by all police services in Ontario. These statistics reveal that in 1999, 531 complaints concerned the alleged inappropriate use of authority, 945 alleged discreditable conduct, 681 concerned the alleged use of excessive force and 1024 alleged neglect of duty. Other types of complaints have included unauthorized use of CPIC data, the alleged shooting of crows by police officers within city limits, and alleged improper "tunnel" vision in serious criminal investigations.

The following are some examples of the type of issues with which the Commission dealt and the decisions which were rendered:

Nature of Police Investigation

1. A complainant alleged that he had been charged with an offence without a proper investigation. At trial, the complainant was acquitted and the trial judge commented on the nature of the investigation. The involved police service initially dismissed the complaint stating that it had been brought in excess of the 6-month time frame provided by the Act. The Commission reviewed a number of factors including the length of delay (two years), the prejudice if any, to the parties by the delay, the seriousness of the allegations and the complainant's level of sophistication with the complaints process. On review, the Commission determined that the matter would be returned, the complaint to be investigated.

Improper Vehicle Stop/Excessive Use of Force

2. The complainant who was suspected of drinking and driving had been shot and injured by a police officer during a stop. The complainant alleged that the police illegally stopped him, used excessive force and did not provide immediate medical treatment for the gunshot injury. On review, the Commission determined that while the investigation into the shooting determined that the use of force was justified, the investigation did not address the initial stop or the actions of the officers towards the complainant subsequent to him being shot. The Commission directed another police service to investigate the allegations not addressed in the initial investigation.

Type of Misconduct

3. The complainant believed that the conduct of the officer constituted serious misconduct, however, the Chief found less serious misconduct. Upon review of all the circumstances, the Commission determined that the police officer had not committed an act of misconduct and directed that the officer not be disciplined at all.

Unsatisfactory Work Performance

4. A Chief acknowledged in his decision letter to a complainant that members of his service had made errors in judgement during an operation, however, the errors did not amount to misconduct. The Commission returned the file stating that it felt there was sufficient evidence to allege unsatisfactory work performance of a serious nature. This decision brought to the fore the issue of whether or not the Commission could invoke unsatisfactory work performance without regard to Ont. Reg. 123/98 governing situations where Chiefs wish to allege unsatisfactory work performance. The decision of the Commission was judicially reviewed in Divisional Court.

5. The complainant alleged excessive force was used when he was pepper sprayed by an arresting officer. On review the Commission determined that at the time of the arrest, the complainant was being non-cooperative and passively resistant. The Commission returned the file to the police service directing a hearing to be convened to determine if the officer's actions constituted misconduct of a serious nature.

Conduct of the Chief

6. In a complaint where the conduct of the Chief of Police had been impugned, a Police Services Board reviewed the complaint in a preliminary way before dismissing it as frivolous and vexatious. On review, the Commission confirmed the decision of the Board.

Officers Uncivil

7. The complainant alleged that police officers were uncivil to him and refused to identify themselves when requested. Although all officers denied the allegations, the Commission found that a 911 call made by the complainant during the incident and the statements of the involved officers provided sufficient evidence to allege that the officers had misconducted themselves. The Commission returned the file as an allegation of minor misconduct.

Complainant Not Given Final Report

8. The complainant alleged that he could not bring a review because he had not been provided with a final report by the police service. The Act requires a Chief to provide a final report along with a decision letter if the complaint is unsubstantiated. The Commission directed the police service to provide a final report to the complainant.

Complainant Cannot Complain about Complaint Decision-Maker

9. The Commission directed a public complaint concerning a decision not be forwarded to a police service. The Commission determined that a complaint could not be made against a decision-maker merely because the complainant disagreed with that officer's decision.

Finding of Misconduct/Unsatisfactory Work Performance

10. The complainant alleged neglect of duty when a police officer failed to take every investigative step into a vehicle collision. On review, the Commission determined that there was sufficient evidence to allege misconduct/unsatisfactory work performance of a serious nature and returned the file to the police service for action. The police service asked the Commission to reconsider its decision to which the Commission demurred. The impugned officer brought an application for judicial review.

First Nations Policing

The Constitution Act of 1982 and the British North America Act of 1867 assigned responsibility for the administration of justice to the provinces. Constitutionally and legislatively, Ontario is responsible for the delivery of policing services to all parts of the province, including First Nations.

The 1972 Ontario Task Force on Policing lead to the establishment of a tri-partite arrangement for funding the 1975 Ontario First Nations Policing Agreement. The Ontario Provincial Police administered the program and provided support. There has been a gradual transfer of administrative responsibility from the OPP to First Nations governing authorities. Some of the functions, previously the exclusive responsibility of the OPP, have become jointly administered while others have been assumed completely by First Nations.

Section 54 of the *Police Services Act*, states that, "with the Commission's approval, the Commissioner may appoint a First Nations Constable to perform specific duties" and further, if the specified duties of a First Nations Constable relate to a reserve as defined in the Indian Act (Canada), the appointment also requires the approval of the reserve's governing authority or band council."

First Nations Police are responsible for enforcing provincial and federal laws and band by-laws in First Nations Territories.

According to the First Nations and Municipal Policing Bureau of the OPP, "the last decade has seen a concerted move to self-policing among Ontario's First Nations communities" and a reduction in the administrative involvement of the OPP in First Nations policing. Today, the OPP manages policing on behalf of 33 communities, down from 87 in 1991.[1]

[1] The OPP Review, Ontario Provincial Police, Vol. 35, No.1, March 2000

First Nations Constables: Self Administration Agreements

AKWESASNE POLICE SERVICE	27
ANISHINABEK POLICE SERVICE:	
CHRISTIAN ISLAND FIRST NATION	4
CURVE LAKE FIRST NATION	6
DOKIS FIRST NATION	1
FORT WILLIAM FIRST NATION	4
GARDEN RIVER FIRST NATION	7
GINOOGAMING FIRST NATION	3
KETTLE POINT FIRST NATION	7
LONG LAKE #58 FIRST NATION	1
NIPISSING FIRST NATION	4
PIC MOBERT FIRST NATION	3
PIC RIVER FIRST NATION	1
ROCKY BAY FIRST NATION	2
SAGAMOK FIRST NATION	8
SAUGEEN FIRST NATION	7
SHAWANAGA FIRST NATION	2
WASAUKSING FIRST NATION	1
LAC SEUL POLICE SERVICE	8

NISHNAWBE-ASKI POLICE SERVICE:

DIVISION A

AROLAND FIRST NATION	3
ATTAWAPISKAT FIRST NATION	4
BRUNSWICK HOUSE FIRST NATION	0
CHAPLEA OJIBWAY FIRST NATION	1
CHAPLEAU CREE FIRST NATION	1
CONSTANCE LAKE FIRST NATION	4
FORT ALBANY FIRST NATION	9
FORT SEVERN FIRST NATION	3
KASHECHWEAN FIRST NATION	4
MARTEN FALLS FIRST NATION	2
MATTAGAMI	1
MOOSE FACTORY FIRST NATION	8
NEW POST FIRST NATION	5
PEAWANUCK First Nation	3
WAHGOSHIG First Nation	2

DIVISION B

BEARSKIN LAKE FIRST NATION	1
CAT LAKE FIRST NATION	3
DEER LAKE FIRST NATION	2
FORT HOPE FIRST NATION	4

HEADQUARTERS	1
KASABONIKA FIRST NATION	2
KEEWAYWIN FIRST NATION	2
KINGFISHER Lake First Nation	2
LANSDOWNE House First Nation	2
MISHKEEGOGAMANG First Nation	4
NEW SLATE FALLS FIRST NATION	2
NIBINAMIK FIRST NATION	3
NORTH SPIRIT LAKE FIRST NATION	3
POPLAR HILL FIRST NATION	1
SACHIGO LAKE FIRST NATION	2
SANDY LAKE FIRST NATION	4
WAPEKEKA FIRST NATION	6
WEBEQUIE FIRST NATION	2
WUNNUMIN LAKE FIRST NATION	3
SIX NATIONS POLICE SERVICE	**20**
UNITED CHIEFS AND COUNCIL OF MANITOULIN (ANISHNABE POLICE SERVICE)	
MINDIMOYA	1
WEST BAY FIRST NATION	10
WHITEFISH RIVER FIRST NATION	1
WIKWEMIKONG POLICE SERVICE	**11**

OPP Sponsored First Nations Police

Batchewana	5
Bear Island	3
Big Grassy	2
Big Trout Lake	3
Cape Croker	4
Chippewa Muncey	3
Couchiching	3
Georgina Island	2
Grassy Narrows	2
Heron Bay	1
Hiawatha	1
Iskutewisakaygun	1
Lac La Croix	2
Manitou Rapids	3
Mnjikanings	8
Moravian	4
Naotkamegwanning	2
New Saugeen	1
Niacatchewenin	4
Northwest Angle	1
Onegaming	3
Oneida	3
Osnaburgh	1
Pikangikum	7
Seine River	2
Shoal Lake	2
Tyendinaga	7
Wabaseemoong	2

WALPOLE ISLAND	6
WAUZHUSHK ONIGUM	3
WEGAMOW LAKE	2
WHITEFISH LAKE	2

Summary Of Commission Approvals – 1999

FIRST NATIONS CONSTABLES - OPP SPONSORED - DECEMBER 31, 1999	
NEW	***TOTAL***
15	**95**

FIRST NATIONS CONSTABLES - SELF ADMINISTRATION AGREEMENTS - DECEMBER 31, 1999	
NEW	***TOTAL***
39	**238**